

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



/S/ RUSS KENDIG

Russ Kendig
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:)	
)	CHAPTER 11
JOSEPH J. DETWEILER,)	
)	CASE NO. 09-63377
Debtor.)	
_____)	ADV. NO. 09-6105
)	
TENNESSEE COMMERCE BANK)	JUDGE RUSS KENDIG
)	
Plaintiff,)	MEMORANDUM OF OPINION
)	(NOT FOR PUBLICATION)
v.)	
)	
JOSEPH J. DETWEILER,)	
)	
Defendant.)	

On January 6, 2010, the plaintiff, Tennessee Commerce Bank, filed a motion for summary judgment against the defendant, Joseph J. Detweiler. The defendant has not responded to the motion for summary judgment. The motion is now before the Court.

The Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334 and the general order of reference entered in this district on July 16, 1984. This proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (I) and (O).

This opinion is not intended for publication or citation. The availability of this opinion, in electronic or printed form, is not the result of a direct submission by the Court.

Summary judgment is governed by Federal Rule of Civil Procedure 56(c), which is made applicable to bankruptcy proceedings by Federal Rule of Bankruptcy Procedure 7056. Rule 56(c) provides that summary judgment “should be rendered if the pleadings, the discovery and disclosure materials *on file*, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.”

A movant for summary judgment bears the initial burden of pointing out facts in the record that support the motion for summary judgment. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1996). If the facts asserted by the movant are not supported by documents filed with the Court, the movant has not met its burden, and the motion for summary judgment must be denied. Celotex, 477 U.S. at 323. *See also* Local R. Bankr. P. 9013-2 (requiring supporting documentation to be filed with motion).

The Court finds that the plaintiff in this case has not met its initial burden of production. The plaintiff cites the defendant’s deposition testimony for the facts that support its claim under 11 U.S.C. § 523(a)(6). However, the deposition has not been filed with the Court. Furthermore, the facts have not been stipulated to or admitted to in the pleadings.

Accordingly, the plaintiff’s motion for summary judgment is denied.

An order will issue simultaneously with this opinion.

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